

## Pension ages and taxation – issued 23 December 2009

### *Status of this Document*

The note concerns the application of tax law and the Police Pension Scheme rules to police pensions. It has been produced by the Home Office's Police Finance and Pensions Unit and has been checked with HMRC. This is general guidance as a personal tax position cannot be determined without full regard to individual circumstances. It is for individual tax-payers to inform themselves of their obligations under tax law and to ensure that they pay the right amount of tax. Part of this guidance also depends on making backdated legislation.

### *Background*

2. As part of the pension tax reform a few years ago the tax rules were changed so that a single tax regime applied to all tax-advantaged (known as "registered") pension schemes. Among the new rules, authorised retirement benefits can only be taken if a scheme member has reached normal minimum pension age (NMPA). NMPA is rising to 55 from 6 April 2010. If benefits are taken before NMPA special tax charges of up to 55% will apply. There is a saving to this new rule: the change does not apply to people with a protected right to take a pension before 55 – a protected pension age (PPA).

3. A person has a PPA if he or she had the right under their scheme rules to a pension before 55 on 5 April 2006 and also had such a right under the rules applying at 10 December 2003, or would have been covered by such a rule on 10 December 2003 if they had been police officers at the time. The right to a pension must be either actual (i.e. the member had become entitled to a pension before 6 April 2006) or prospective (i.e. the member had not yet become entitled to a pension as at 5 April 2006). An individual's PPA is the precise age, as at 5 April 2006, at which he or she had a right to take the pension. HMRC interpret a right to take a pension to be a right to elect under the scheme rules to retire and receive pension without having to seek permission.

### *Substantive Federated and Superintending Ranks at 5 April 2006*

4. All the officers who were in the federated or superintending ranks on 5 April 2006 will have a right to take a pension before 55 provided they:

- qualified, or were on course for qualifying, at that point for an ordinary pension under regulation B1 of the Police Pensions Regulations 1987<sup>1</sup> before age 55; and
- were in such a rank on 10 December 2003, or would have been, had they been a member of the scheme at the time.

This is because regulation B1 of the Police Pension Regulations 1987<sup>1</sup> provides a right for members of the federated and superintending ranks to retire with an ordinary pension before 55 if they have the required pensionable service and give one month's notice. Once an officer has acquired a PPA he or she cannot lose it even if promoted after 5 April 2006 into a rank which does not have a similar right to a pension at that age.

5. For the purposes of receiving an ordinary pension under regulation B1<sup>1</sup>, the PPA of an officer who was a chief superintendent or below on 5 April 2006 and was

also in such a rank on 10 December 2003 (or would have been, had they been a member of the Police Pension Scheme 1987 at the time) will be either the point at which he or she qualifies for a 30-year pension or age 50 (in the case of those with at least 25 but less than 30 years' service), whichever is the earlier.

*Substantive Chief Officer Ranks at 5 April 2006*

6. Different considerations apply to officers who were chief officers on 5 April 2006. These officers fall into two groups; those who were not chief officers on 10 December 2003 and those who were.
7. Chief officers as at 5 April 2006 who were in the federated and superintending ranks on 10 December 2003 would be able to satisfy the conditions in paragraph 22 of Schedule 36 to Finance Act 2004 (i.e., the conditions for a PPA) provided they:
  - a) had a fixed-term appointment (FTA) on 5 April 2006 ending on a date where they qualify or qualified to take an ordinary pension before age 55 under the provisions of regulation B1(3)(ba)<sup>2</sup>, or
  - b) had a fixed-term appointment (FTA) on 5 April 2006 ending on or after age 55 but would reach 25 years' pensionable service before age 55 within the term of the FTA, or
  - c) were in the rank of Assistant Chief Constable (or London equivalent) on 5 April 2006 and would reach 25 years' pensionable service before age 55.
8. Chief officers as at 5 April 2006 who were also chief officers on 10 December 2003 would be able to satisfy the conditions for a PPA provided they:
  - a) had an FTA or FTAs on 10 December 2003 and 5 April 2006 ending (in each case, if there were two different FTAs) on a date where they qualify or qualified under regulation B1(3)(ba) to take an ordinary pension before age 55, or
  - b) had an FTA on 10 December 2003 ending on a date where they qualify or qualified under regulation B1(3)(ba) to take an ordinary pension before age 55, and had an FTA on 5 April 2006 ending on or after age 55 but would reach 25 years' pensionable service before age 55 within the term of the FTA, or
  - c) were in the rank of Assistant Chief Constable (or London equivalent) on 5 April 2006 and would reach 25 years' pensionable service before age 55, and had an FTA on 10 December 2003 ending on a date where they qualified under regulation B1(3)(ba) to take an ordinary pension before age 55.
9. The PNB Agreement of 12 February 2004 conferred a general right on chief officers to an ordinary pension from age 50 as at 5 April 2006. The PNB Agreement is being confirmed in the form of a provision in the Police Pensions Regulations 1987<sup>1</sup> with backdated effect covering the period 1 April 2004 to 30 September 2006. The provision will set out that during the said period, any chief officer aged 50 or over and with the necessary 25 years' pensionable service had the right to retire with an immediate ordinary pension provided they gave six months' notice and provided they were not subject to misconduct, unsatisfactory performance, inappropriate conduct or efficiency or effectiveness procedures.
10. The guidance in this note is issued on the basis that Parliament approves the change in the Regulations.

### *How to determine the PPA*

11. For the purposes of receiving an ordinary pension under regulation B1, each member of a force who was a chief officer on 5 April 2006 and who satisfies the conditions for a PPA under either paragraph above will have a specific PPA relating to his or her situation on that date. Where the officer had an FTA on 5 April 2006 the PPA is either:

- a) the age of the officer on the day after the expiry of the FTA, if on that day he or she either has 30 years' service, or has at least 25 years' pensionable service and is aged 50 or over, or
- b) 50, if the FTA expires while the officer is under 50 and has at least 25 but less than 30 years' pensionable service; or
- c) the age, if applicable, when the officer reaches 25 years' pensionable service during the FTA, subject to a minimum age of 50.

Where two options apply, the PPA will be whichever is the earlier age<sup>3</sup>.

12. Where the officer did not have an FTA on 5 April 2006, the PPA is either:

- a) 50, if the officer has at least 25 years' pensionable service at that age, or
- b) the age when the officer reaches 25 years' pensionable service, if that age is over 50.

### *Validity of the PPA*

13. Once an officer has acquired a PPA at 5 April 2006 for the purposes of receiving an ordinary pension under regulation B1<sup>1</sup> they will not lose that PPA if they have changed or extended their FTA since then. Similarly, an officer is free to defer retirement beyond their PPA without fear of losing the right to retire at a later date but still before age 55 as a PPA is the earliest age from which benefits may be taken.

Police Finance and Pensions Unit  
Home Office

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<sup>1</sup> See Police Pensions Regulations 1987 SI No. 257, as amended

<sup>2</sup> Regulation B1(3)(ba) has been replaced by regulation B1(3)(b)

<sup>3</sup> To qualify for a PPA below 50 they would also need to have:  
*either* been in a rank below ACPO level on 10 December 2003;  
*or* been in an ACPO rank on 10 December 2003 and have had an FTA also on that date which ended on a date on which they could retire with a 30-year pension before 50.

